



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/060,996	01/30/2002	Bryan E. Aupperle	RSW920010202US1	6642

46320 7590 10/03/2005
CHRISTOPHER & WEISBERG, PA
200 E. LAS OLAS BLVD
SUITE 2040
FT LAUDERDALE, FL 33301

EXAMINER

GARG, YOGESH C

ART UNIT PAPER NUMBER

3625

DATE MAILED: 10/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/060,996

Applicant(s)

AUPPERLE ET AL.

Examiner

Yogesh C. Garg

Art Unit

3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) 1-3, 6 and 10 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 4, 5, 7-9 and 11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 1/30/2002.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment/Election/Restrictions

1.1. Applicant's election without traverse of claims 4-5, 7-9 & 11 in the reply filed on 7/18/2005 is acknowledged.

1.2. Claims 1-3, are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention and claims 6 and 10 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 7/18/2005.

1.3. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

2. NOTE: Examiner cites particular columns and line numbers in the references as applied to the claims below for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested that, in preparing responses, the applicant fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3.1. Claims 4 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Conklin et al. (US Patent 6,338,050), hereinafter, referred to Conklin, and further in view of Horn et al. (US Publication 2002/0156688), hereinafter, referred to Horn.

Regarding claim 4, Conklin discloses that " Prior Art" existed at the time of the applicant's invention teaching a method of cooperatively processing e-business

Art Unit: 3625

transactions in an e-business complex comprising the steps of: registering a plurality of virtual store operators with the e-business complex, each said registration establishing a virtual store in the e-business complex; providing to individual ones of on-line shoppers in the e-business complex, window displays of products offered for sale by virtual stores in the e-business complex, and accepting shopper orders for said products from said individual on-line shoppers; (see at least Fig.2 (b), col.2, line 62-col.3, line 13 which disclose a virtual mall "24" website including a plurality of virtual store operators "28" registered to sell products to on-line shoppers in an e-business complex by displaying the products offered on the on-line shoppers computer monitors "08 a, 08 b..." via world wide web which uses Microsoft Windows software. The individual on-line shoppers using their computer terminals and Microsoft windows can display the products being sold by virtual stores, browse the products, select them via a shopping cart. The payment is collected by credit cards for the stores after accepting orders from the on-line shoppers. See also col.10, lines 1-67, col.11, line 60-col.12, line 1 which teaches that an administrator coordinates the placement of orders and collection of payment. Conklin's invention discloses improvements over this cited prior art by additionally providing a multivariate negotiations engine allowing the buyers and store to negotiate prices, provide handling of payments, international transactions and establishing community Websites, which resemble a Virtual Mall website, as cited above including/integrate a number of seller websites via the community website (see at least col.14, line 1-col.15, line 8 and col.18, line 38-col.19, line 27). Conklin further teaches notifying selected store operators of said shopper orders, said selected store

operators operating virtual stores in the e-business complex which correspond to said products ordered by said on-line shoppers (see at least col.19, lines 28-37 and col.25, lines 52-66 which teach notifying the seller, that is the store operator as claimed in the application, of the purchaser's interest in ordering an item);

Conklin does not teach notifying selected vendors of said shopper orders, said selected vendors supplying said products offered for sale by said selected store operators; fulfilling said shopper orders with said products supplied by said selected vendors; and collecting payments for said shopper orders from said on-line shoppers and distributing portions of said payments to each of said vendors and said store operators. Note: The concept of the applicant's invention, as best understood by the examiner, is that the store operators representing virtual store websites hosted on the virtual Mall web site are acting as selling agents to vendors/manufacturers who are the actual shippers of goods and therefore portions of payments collected from the on-line shoppers are distributed to both the virtual store operator and the vendor who ships the goods. In the same field of endeavor, that is conducting global commerce via referral Websites Horn teaches notifying selected vendors of said shopper orders, said selected vendors supplying said products offered for sale by said selected store operators; fulfilling said shopper orders with said products supplied by said selected vendors; and collecting payments for said shopper orders from said on-line shoppers and distributing portions of said payments to each of said vendors and said store operators (see at least paragraphs 0321 and 0686 which disclose that from the payments received the purchase of the items portions of said payments are distributed

Art Unit: 3625

to the Referral Websites, which correspond to the virtual stores in the claimed application, and to the manufacturer, which correspond to the vendors, as claimed in the application, and page 39, claim 1, lines 24-36, "*collecting payment for said at least one product from said Buyer at a Website which is e-commerce enabled for processing purchase transactions, and notifying the manufacturer of said at least one product that a purchase has been made and a at least one product needs to be shipped to said Buyer, the shipment to be made by a shipper for tangible products and by making the products downloadable by the Buyer for downloadable digital products, said digital products being in the group of digital products comprising text files, video files, and audio files. whereby, manufacturers around the world may deliver products* ").

In view of explicit teachings of Horn, it would be obvious to one of an ordinary skill in the art at the time of the applicant's invention to have modified Conklin to incorporate the teaching of notifying selected vendors of said shopper orders, said selected vendors supplying said products offered for sale by said selected store operators; fulfilling said shopper orders with said products supplied by said selected vendors; and collecting payments for said shopper orders from said on-line shoppers and distributing portions of said payments to each of said vendors and said store operators because it would enable manufacturers/vendors to increase revenues and profits by being presented more opportunities to sell their products via Referrals from the Referral Web sites all over the world, wherein as mentioned above, referral web sites correspond to the store operators as participants in a virtual Mall or a Global store in Horn.

Regarding claim 8, its limitations are closely parallel to the limitations of claim 4 and are therefore analyzed and rejected on the same basis as being unpatentable over Conklin in view of Horn.

3.2 Claims 5, 7, 9 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Conklin in view of Horn and further in view of Vega (US Publication 2002/0120554).

Regarding claims 5 and 7, Conklin in view of Horn teaches providing to said store operators a catalog of services offered for sale by associated services providers; and, brokering at least one transaction for at least one of said services between at least one of said store operators and at least one of said service providers. Refer to Conklin. Conklin teaches that the participants in a community, comprises a host community Web site, that is a Virtual Mall web site including a plurality of seller web sites, that is virtual store operators selling products to customers and these store operators act as referral web sites or agents selling products of vendors/manufacturers, as analyzed above and earning fees or commissions from the purchase revenues. Conklin also teaches that the participants in a community that is sellers could also be buyers (see at least col.17, lines 19-21, "...In some cases both..", that is a seller or a referral website can be both a seller and buyer) and therefore one of the store operator could participate as a buyer buying products/services from another store operator, which could broker services by providing a catalog of

professional services ending into a transaction like any other product as shown in Conklin (see at least col.10, lines 1-7)

However, Conklin in view of Horn does not teach explicitly that those brokered services to store operators could relate to professional services including tax and accounting services. However, in the same field of conducting online e-commerce of providing professional services to customers, Vega teaches brokering/providing tax and accounting services, see page 4, paragraphs 0039-0043 and paragraph 0043 states, "... *The disclosed method/system advantageously facilitates processing the retainer of services, such as legal, medical, accounting, and tax-related services....*". In view of Vega, it would be obvious to one of an ordinary skill in the art at the time of the applicant's invention to have modified Conklin in view of Horn to incorporate the feature of brokering professional services , such as tax and accounting services to the customers including the store operators of the virtual mall because, as disclosed in Vega, it will advantageously facilitate functioning of a marketplace for professional services like for other products and services already disclosed in Conklin/Horn.

Regarding claims 9 and 11, their limitations are closely parallel to the limitations of claims 5 and 7 are therefore analyzed and rejected on the same basis as being unpatentable over Conklin in view of Horn and further in view of Vega.

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

(i) US Patent 6,029,141 to Bezos et al. discloses an Internet based referral system that enables business entities to market products, in return for a commission, that are sold from a merchants' web site (see at least Abstract).

(ii) US Patent 5,826,244 to Huberman teaches a method and system for facilitating electronically networked brokered document services such as distributed printing (see at least col.2, lines 54-63).

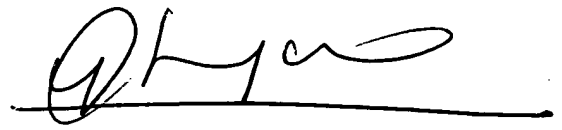
(iii) US Publication 2002/0133410 to Hermreck et al. discloses a system and method for facilitating preparation of Income tax return via electronic network (see at least Fig.2 and Abstract).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yogesh C. Garg whose telephone number is 571-272-6756. The examiner can normally be reached on M-F(8:30-4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn Coggins can be reached on 571-272-7159. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3625

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Yogesh C Garg', written over a horizontal line.

Yogesh C Garg
Primary Examiner
Art Unit 3625

YCG
September 28, 2005